



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



January 16, 2019

SENT VIA EMAIL

53571-80384283@requests.muckrock.com

Ms. Emma Best
MuckRock News
DEPT MR 53571
411 A Highland Ave
Somerville, MA 02144-2516

Dear Ms. Best:

This letter is the final response to your May 9, 2018, Freedom of Information Act (FOIA) request for copies of records relating to the creation, design, approval and implementation of the Nevada National Security Site's mascot, the Green Reaper.

Your request was originally submitted to the Department of Energy Headquarters Office (DOE-HQ). DOE-HQ responded to you and transferred your request for processing. Our office received your request on May 16, 2018.

We contacted the Nevada Field Office (NFO), oversight for the Nevada National Security Site (NNSS). NFO searched but did not find responsive documents. NNS asked the M&O contractor Mission Support and Test Services, LLC (MSTS) to search for responsive records; MSTS located the following eight documents.

These documents are fully releasable and are provided to you in their entirety:

Document 2 – First 50 Percent Invoice
Document 3 – Green Reaper Flyer
Document 4 – Costume Design
Document 5 – Requisition Report
Document 7 – Statement of Work

These documents are provided with deletions pursuant to 5 USC § 552(b)(4) (Exemption 4 of the FOIA) and 5 USC § 552(b)(6) (Exemption 6 of the FOIA).

Document 1 – Approval of Requirements
Document 8 – Verbal Quotes

The following document is provided with deletions pursuant to Exemption 6.
Document 6 – Green Reaper Estimates

We also contacted the Office of Safety, Infrastructure and Operations (NA-50) regarding the sustainability award for NNSS's Green Reaper. NA-50 located two documents which are provided in their entirety.

Document 9 – Email – NNSA Announces 2013 Sustainability Awards
Document 10 – Email – 2013 Sustainability Awards NNSA Nominations

Additionally, in a cursory search of the internet, we found two documents with mention of the Green Reaper that may be of interest to you:

Document 11 – NNSS Environmental Report Summary 2015
Document 12 – NNSS Environmental Report Summary 2013

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." This exemption is intended to protect the interests of both the government and submitters of information. The exemption also affords protection to those submitters who are required to furnish commercial or financial information to the government by safeguarding them from the competitive disadvantages that could result from disclosure. The exemption covers two broad categories of information in federal agency records: (1) trade secrets; and (2) information which is (a) commercial or financial, and (b) obtained from a person, and (c) privileged or confidential.

The information withheld pursuant to Exemption 4 is confidential financial information taken directly from the quotes. This information, if released, would likely cause substantial harm to the competitive position of the submitting companies. Also, the information is strictly developed by the submitting companies and its release would provide insight into the development of the companies costing strategies and quality of performance. Since these companies operate in a very competitive market, the release of this information could seriously affect their ability to obtain business, thus causing substantial financial harm to these companies. Release could allow a competitor to more easily predict how a company might bid in similar, future solicitations and adjust its future bids accordingly. In addition, this type of information is held in the strictest confidence by these companies and is not customarily released to the general public. Therefore, release of the withheld information would likely cause substantial harm to the competitive and financial position of the submitting companies by giving competitors a means to gain a competitive advantage in the areas in which each company competes for work.

The purpose of Exemption 6 is to protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information. To determine whether disclosure would constitute a clearly unwarranted invasion of personal privacy, the public interest in disclosure, if any, must be balanced against the privacy interests that would be

invaded by disclosure of the information. In this case, the names, home addresses, telephone numbers and other personally identifying information of contractor employees has been withheld. Release of this information pertaining to these contractor employees would cause inevitable harassment and unwarranted solicitation for these individuals. In addition, release of this information would not shed light on the operations of the federal government. Since its release will not reveal anything of significance to the public, the interest in protecting against the invasion of privacy that would result to the individual in question far outweighs the public interest in such disclosure.

It is widely held that federal employees have no expectation of privacy regarding their names, titles, grades, salaries, and duty stations. See 5 CFR § 293.311 (1994); Core v. United States Postal Serv., 730 F.2d 946, 948 (4th Cir. 1984); National W. Life Ins. Co. v. United States, 512 F. Supp. 454, 461 (N.D. Tex. 1980). Therefore, the disclosure of such information about federal employees would involve little or no invasion of privacy. Contractor employees, however, are not federal employees. Rather, they are private individuals. The Supreme Court has long found a privacy interest in the names and personal information of private individuals significant enough to warrant protection from disclosure under Exemption 6.

The Department of Energy (DOE) regulations 10 CFR § 1004.1 provide that documents exempt from mandatory disclosure under the FOIA shall be released regardless of their exempt status, unless DOE determines that disclosure is contrary to public interest. For the reasons described above, NNSA has determined that release of the information described above is not in the public interest.

Pursuant to 10 CFR § 1004.7(b)(2), I am the individual responsible for withholding the Exemption 4 and 6 information.

You may appeal our withholding of information pursuant to 10 CFR § 1004.8. Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal. Please clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (this is the method preferred by the Office of Hearings and Appeals). Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

For further assistance, or to discuss any aspect of your request, you may contact NNSA's FOIA Public Liaison, John E. Weckerle, FOIA Officer, by telephone at 1-866-747-5994, or by mail at Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM, 87185. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. Contact information

for OGIS: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email ogis@nara.gov; telephone (202) 741-5770; toll free 1-877-684-6448; or facsimile (202) 741-5769.

There are no fees chargeable to you for processing this request. If you have questions concerning the processing of this request, please email karen.laney@nnsa.doe.gov or write to the address above. Please reference Control Number FOIA 18-00182-D0 in your communication.

Sincerely,



John E. Weckerle
Authorizing and Denying Official

Enclosures

cc:

L. Minor, NFO
S. Crandell, NA-50